

CYN145.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

JAMEEL SHABAZZ and ALFRED TORRES,
Individually and on Behalf of All Others
Similarly Situated,

v.

MORGAN FUNDING CORP., DANIEL
MACKLE, DANIEL LOUIS, and FRANK
CARDIA,

Defendants.

Civ. No.: 07 CV 126
(GEL)

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: *[Signature]*

JOINT STIPULATION AND ORDER CERTIFYING THIS CASE AS A COLLECTIVE ACTION, ALLOWING NOTICE TO ISSUE, AND EXTENDING DEFENDANTS' TIME TO ANSWER THE AMENDED COMPLAINT

The Parties request that this Court enter an order:

- a. Conditionally certifying this case as a Rule 216(b) collective action;
- b. Requiring Defendants to provide Plaintiffs' counsel the names, last known addresses, social security numbers, and telephone numbers (if known) of all potential opt-in members in electronic format within ten days of this Order;
- c. Authorizing Plaintiffs' counsel to distribute the attached notice and opt-in form via first class U.S. Mail to all persons who were employed by Defendants as loan officers or other similarly titled positions from January 8, 2004 through the present for a period of seventy days from the date of this Order;
- d. Prohibiting Plaintiffs from filing a motion for certification under Rule 23 for a period of seventy days from the date of this Order;
- e. Allowing Defendants fourteen days from the date of this Order to file an answer to the Amended Complaint;
- f. Deeming all individual Defendants to have been served as of February 13, 2008.

It is further stipulated that the Parties reserve the right to raise all arguments in support of or against any motion for certification under Rule 23 that may be filed in this case.

STIPULATED AND AGREED:

Ari Karen

EHL

Ari Karen (*Pro Hac Vice*)
VENABLE LLP
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Washington, D.C. 20004
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El L

Erik H. Langeland (EL-7512)
Erik H. Langeland, P.C.
500 Fifth Avenue Suite 1610
New York, NY 10110
(212) 354-6270
clangeland@langelandlaw.com

* **SO ORDERED:**

Gerard E. Lynch

Gerard E. Lynch, U.S.D.J.

Dated: 5/5/08 r

NOTICE OF CLASS ACTION LAWSUIT

Shabazz and Torres v. Morgan Funding Corp.
United States District Court for the Southern District of New York

TO: LOAN OFFICERS

RE: UNPAID OVERTIME OR MINIMUM WAGES

I. INTRODUCTION

A class action lawsuit has been filed against Morgan Funding for failure to pay overtime and/or minimum wages to loan officers as required by law. You are "similarly situated" to the Plaintiffs in the lawsuit and, therefore, can join this lawsuit. This letter advises you how this suit may affect your rights and instructs you on the procedure for participating in this suit, if you choose to join.

II. DESCRIPTION OF THE LAWSUIT

On January 8, 2007, Jameel Shabazz sued Morgan Funding for failing to pay overtime compensation under the Fair Labor Standards Act. The case was filed in Federal Court in the Southern District of New York.

This lawsuit alleges that Morgan Funding required its Loan Officers to work greatly in excess of forty (40) hours per week without paying them overtime compensation and/or minimum wages as required by law. The objective of the lawsuit is to compel Morgan Funding to pay the Plaintiffs for the overtime they worked or their unpaid minimum wages or both, plus interest, statutory penalties, reasonable attorneys' fees and litigation costs for themselves and for you, if you decide to join this lawsuit. Morgan Funding denies Plaintiffs' allegations.

III. WHO CAN JOIN

The named Plaintiffs have sued on behalf of:

1. themselves; and
2. any employee who is or has been, at any time within the past three (3) years, employed by Morgan Funding as a "loan officer."

If you have already brought a lawsuit against Morgan Funding for failure to pay overtime wages owed to you, you may not be eligible for this lawsuit.

IV. YOUR RIGHT TO PARTICIPATE IN THIS SUIT

If you fit the definition above, you may join this suit (that is, you may "opt-in") by faxing the Opt-in Consent Form to (212) 898-9086 or mailing it to Plaintiffs' counsel at the following address:

**ERIK H. LANGELAND, P.C.
Attn: Morgan Funding Class Action**

500 Fifth Avenue, Suite 1610
New York, NY 10110
(212) 354-6270 (Phone)
(212) 898-9086 (Fax)
elangeland@langelandlaw.com

This form must be returned in sufficient time to have Plaintiffs' counsel file it with the federal court on or before _____. If you do not return the Opt-In Consent Form to Plaintiffs' counsel before the above deadline date, you may not be able to participate in the lawsuit.

V. EFFECT OF JOINING THIS SUIT

If you choose to join in the suit, you will be bound by the judgment or settlement, whether it is favorable or unfavorable. While this suit is pending, you may be required to respond to written questions, sit for depositions, and/or testify in court. The attorneys for the class Plaintiffs are being paid on a contingency fee basis, which means that if there is no recovery, there will be no attorneys' fee. If there is a recovery, the attorneys for the class will receive a part of any settlement obtained or money judgment entered in favor of all members of the class. By joining this lawsuit, you designate the class representatives as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit. These decisions and agreements made and entered into by the representative Plaintiffs will be binding on you if you join this lawsuit.

VI. NO LEGAL EFFECT IN NOT JOINING THIS SUIT

If you choose not to join this suit, you will not be affected by any judgment or settlement rendered in this case. If you choose not to join in this lawsuit, you are free to file your own lawsuit. The statute of limitations will continue to run on your claim until you join this suit or file your own.

VII. NO RETALIATION PERMITTED

Federal law prohibits Morgan Funding from retaliating against you in any manner discriminating because you join this lawsuit.

VIII. YOUR LEGAL REPRESENTATION IF YOU JOIN

If you choose to join this suit, your interests will be represented by the named Plaintiffs through their attorneys, as counsel for the class. Counsel for the class are:

Erik H. Langeland
ERIK H. LANGELAND, P.C.
500 Fifth Avenue, Suite 1610
New York, NY 10110
(212) 354-6270
(212) 898-9086 (Fax)
elangeland@langelandlaw.com

and,

Jonathan W. Cuneo
Jon A. Tostrud
CUNEO GILBERT & LADUCA, LLP
507 C Street, NE
Washington, DC 20002
(202) 789-3960
jonc@cuneolaw.com

IX. FURTHER INFORMATION

You may obtain further information about this Notice, filing an Opt-in Consent Form, or answers to questions concerning this lawsuit by writing or calling Plaintiffs' counsel at the number or address stated above.

Dated: _____

Sincerely,

Erik H. Langeland
500 Fifth Avenue, Suite 1610
New York, NY 10110
(212) 354-6270
(212) 898-9086 (Fax)
elangeland@langelandlaw.com

****PLEASE NOTE****

There is a two (2) year deadline for filing overtime claims (or three (3) years if the violation was willful) running from the date(s) the overtime hours were actually worked. To maximize your recovery, return your Opt-in Consent Form as soon as possible so we may file it with the Court and preserve your rights.

OPT-IN CONSENT FORM

Shabazz et al vs. Morgan Funding Corp.

Complete and Mail To:

Erik H. Langeland, P.C.
Attn: Morgan Funding Corp. Class Action
500 Fifth Avenue
Suite 1610
New York, NY 10110
(212) 354-6270
(212) 898-9086 (Fax)

CONSENT TO JOIN COLLECTIVE ACTION

Pursuant to Fair Labor Standards Act
29 U.S.C. §216(b)

1. I _____ consent and agree to pursue my claims arising out of unpaid overtime work as a loan officer at Morgan Funding Corp. in connection with the above referenced lawsuit.
2. I have worked in the position of loan officer at Morgan Funding Corp. from on or about _____ (month, year) to on or about _____ (month, year).
3. During the above time period, I worked in excess of forty (40) hours per week, but was not paid overtime compensation.
4. I understand that this lawsuit is brought under the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. §201 et. seq. I hereby consent, agree and opt-in to become a Plaintiff herein and be bound to any judgment by the Court or any settlement of this action.
5. I hereby designate the law firm of ERIK H. LANGELAND, P.C. ("Plaintiffs' Counsel"), to represent me for all purposes of this action.
6. I also designate the Class Representative(s) as my agent(s) to make decisions on my behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' Counsel concerning attorneys' fees and costs, and all other matters pertaining to this lawsuit.

(Date Signed)	(Signature)
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****NOTE** Statute of Limitations concerns mandate that you return this form as soon as possible to preserve your rights. (See "Notice of Proposed Class Action Lawsuit" for time deadlines).**